IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.6024 of 1996

Between:

The District Cooperative Central Bank Ltd.,

Rep. by General Manager
Eluru, W.G. district.

..... PETITIONER

AND

1 The State of A.P., Rep. by Secretary to Government,
Labour Employment Nutrition and Technical Education Dept.,
Secretariat, Hyderabad.
2 The Deputy Commissioner of Labour,
Eluru, W.G.District, (2nd Appellate Authority under

Section 48 of the A.P. Shops & Establishment Act 1988)
3 The Assistant Commissioner of Labour,
Eluru, W.G.District, (Court of Authority under

Section 48 of the A.P. Shops & Establishment Act 1988)
4 S.Y. Ramakrishna, S/o Suryanarayana,
Jangareddigudem, W.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction, particularly in the nature of a writ of Mandamus declaring that the order of the Authority under section 48 of the Shops and Establishment Act 1988 and the Asst. Commissioner Labour, Eluru, W.G. District, Dt:17.5.93 A.P.S.E. Appeal No.1/92 as confirmed by the second Appellate Authority under section 48(3) of the A.P. Shops and Establishment Act and the deputy

Commissioner of Labour Eluru W.G. district by his order dt:6.9.95 in APSA case No. 3/94 as Arbitrary, illegal and void.

Counsel for the Petitioner: Mr. I.SRIRAMAMURTHY

Counsel for Respondents 1 to 3 : G.P. for Labour

Counsel for the Respondent No.4: Mr.K.RATNAM

The Court made the following :

ORAL ORDER:

This Writ Petition is filed by the Management - District Cooperative Central Bank, West Godavari, Eluru, represented by its General Manager, being aggrieved by the Order passed by the Authority under Section 48(1) of the A.P. Shops and Establishments Act,1988-cum-Assistant Commissioner of Labour, Eluru in A.P.S.E.Appeal No.1/92, dated 17-5-1993 as confirmed by the Second Appellate Authority under Section 48(3) of the said Act-cum-Deputy Commissioner of Labour, Eluru in A.P.S.A.Case No.3/94, dated 6-9-1995.

The facts are not in dispute. Respondent No.4 was appointed as an Attender in the petitioner-Bank on NMR basis with effect from 20-11-1986. His services were regularized with effect from 29-3-1989 in the said cadre. Thereafter, his services were abruptly terminated orally on 27-8-1989. Aggrieved by the same, he raised a dispute before the first appellate authority in A.P.S.E. Appeal No.1 of 1992. Before the First Appellate Authority, on behalf of the Employee, he examined himself as A.W.1 and got marked Exs.A1 and A2 and for the Management O.Ws.1 and 2 were examined and Exs.O1 to O11 were marked. On appreciation of the entire evidence on record, the first appellate authority came to the conclusion that the Bank did not follow the conditions laid down under the Act before terminating the services of the employee and it was established during the course of evidence that the employee was not aware of the various Regulations and Circular instructions that have been issued by the Apex Bank at Hyderabad and the knowledge on the part of the employee of those instructions and regulations is not a ground for the management to terminate his services. Under these circumstances, it was held that the termination of the services of the employee was invalid under law and thus allowed the appeal

and directed reinstatement of the employee into service with continuity of service and all other attendant benefits, but without back wages. Aggrieved by the same, the Bank filed an appeal being A.P.S.A. Case No.3 of 1994 before the Second Appellate Authority under Section 48(3) of the Act. The Second Appellate Authority, after elaborate consideration of the matter, confirmed the Order passed by the First Appellate Authority. Challenging the same, the present writ petition is filed.

Heard both sides and perused the entire material on record including the impugned Orders passed by the Authorities under the Act.

As seen from the above, while terminating the services of the 4th respondent-employee, the provisions of Section 47 of the Act were not followed. In view of the gross violation of those provisions, the First Appellate Authority rightly found that the 4th respondent was entitled for reinstatement with continuity of service and all other attendant benefits, but without any back wages. The Second Appellate Authority, after scanning through the entire material placed before it, held that the first appellate authority was right in allowing reinstatement of the employee with continuity of service, but without back wages and thus confirmed the order of the first appellate authority. There is no illegality or irregularity in the impugned orders and no grounds are made out to interfere with the same, in exercise of the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. The Writ Petition fails and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

23-12-2004

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary to Government, State of A.P.,
Labour, Employment, Nutrition and Technical Education Dept.,
Secretariat, Hyderabad.
2 The Deputy Commissioner of Labour,

(2nd Appellate Authority under

Section 48 of the A.P. Shops & Establishment Act 1988)
Eluru, W.G.District,
3 The Assistant Commissioner of Labour, (Authority under

Section 48 of the A.P. Shops & Establishment Act 1988)
Eluru, W.G.District,

4 S.Y. Ramakrishna, S/o Suryanarayana,
Jangareddigudem, W.G.Dist.

5. 2CCs to G.P. for Labour, High Court Buildings, Hyderabad (OUT)

6. 2CD copies